IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9130 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NATVARLAL JETHALAL

Versus

NJ SHAH

Appearance:

MR JC VYAS for Petitioners

MR RS SANJANWALA for Respondent No. 1

MR PARESH M DAVE for Respondent No. 2

RULE SERVED for Respondent No. 5

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 10/04/2001

ORAL JUDGEMENT

1. The petitioners' case, in brief, is that they were the owners of land bearing survey No.61/1 Paiki, block No.58, admeasuring 2 acres and 25 Gunthas situate

in the outskirts of village Hebatpur, taluka Daskroi, district Ahmedabad. The said land came to be sold by them to respondent No.1 by a registered sale deed on October 13, 1981 and requisite entries also came to be made in the revenue records on October 15, 1982, being entries No.1090 and 1091. The said entries were ordered to be deleted on June 8, 1983 as the transaction was found to be contrary to the provisions contained in Section 63 of the Bombay Tenancy and Agricultural Lands Act, 1948. Thereafter, a notice came to be issued by the Mamlatdar under Section 84-C of the said Act on October 3, 1986 and a case bearing Tenancy Case No.145 of 1990 was conducted. The Mamlatdar concluded that there was breach of Section 63 of the Tenancy Act and ordered that the land be restored to the original owner, i.e. the present petitioners. Following that decision, respondent No.1 preferred an appeal being Tenancy Appeal No.52 of 1992 before Deputy Collector, under Section 74 of the Tenancy Act. The said appeal came to be dismissed by an order dated the 30th December, 1992. Against that order, respondent No.1 preferred Revision Application No.955 of 1992 before Gujarat Revenue Tribunal and the Tribunal, by judgment and order dated the 14th August, 1995, allowed the revision application whereby the earlier orders came to be quashed and set aside. Against the said decision of the Gujarat Revenue Tribunal, the original owners have preferred this petition, raising number of contentions.

2. The petition is objected to by respondent No.1 through learned Senior Advocate Mr. Sanjanwala on a legal point, namely, want of locus so far as the petitioners are concerned. Mr. Sanjanwala has relied on the following decisions of this Court holding that a person who has sold the land even in breach of the provisions of Section 63 of the Tenancy Act will have no locus standi to prefer a petition:-

(1) Smt. Ratnaprabhabai v. Tulsidas V. Patel & Ors., 1982(2) GLR 213.

(2) Bhailalbhai Mathurbhai Patel v. The State of Gujarat & Ors., Decision dated 05/011/1999 in Special Civil Application No.9423 of 1996.

(3) Judgement dated 29.02.2000 in Letters Patent Appeal No.1625 of 1999 by Division Bench (Coram: C.K. Thakkar and D.P. Buch, JJ.).

(4) Order dated 01.03.2001 passed by learned Single Judge (Coram: Ms. R.M. Doshit, J.) in Special Civil Application No.1478 of 2001.

3. Heard learned advocate Mr. J.C. Vyas on this question as well.

4. Having gone through the judgments relied upon by Mr. Sanjanwala, learned Senior Advocate for the petitioner, it appears that since the decision in the case of Smt. Ratnaprabhabai (supra), consistently, this Court has taken the view that a person selling the land even in contravention of Section 63 of the Tenancy Act will have no locus standi to prefer a petition against the order passed under Section 84-C of the said Act, the latest one being the order passed in Special Civil Application No.1478 of 2001 on the 1st March, 2001 by Ms. R.M. Doshit, J., wherein all the aforesaid decisions are taken into consideration. A Division Bench of this Court in Letters Patent Appeal No.1625 of 1999 in Special Civil Application No.9423 of 1996 has also taken the same view and observed thus:

> "We are in agreement with the reasons recorded and conclusions arrived at by the learned Single Judge."

The learned Single Judge, in the impugned judgment before the Division Bench, had relied upon the decision in the case of Ratnaprabhabai (supra) and had held that the petitioner will have no locus standi.

5. Mr. Sanjanwala also contended that there is sizeable delay in initiation of the proceedings, which has also been considered by the Tribunal. In view of the fact that the petition has to fail even on a solitary ground of want of locus, the question of delay is not required to be gone into.

6. In view of the above proposition of law settled by various judgments, this petition cannot be entertained only on the ground of want of locus on part of the petitioners and, therefore, the petition deserves to be dismissed and the same is dismissed. Rule is discharged. Interim relief stands vacated. No costs.

[A.L. DAVE, J.]

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